

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NEW CINGULAR WIRELESS SERVICES,
INC., formerly known as AT&T Wireless
Services, Inc., a Delaware corporation,

Plaintiff,

v.

CELLCOM TECH, INC., a New York
corporation,

Defendant.

No. C05-1736Z

ORDER

This matter comes before the Court on Plaintiff New Cingular Wireless Services, Inc.'s Motion for Default Judgment against Defendant Cellcom Tech, Inc. ("Cellcom"), docket no. 9. An earlier Order of Default having been entered against Cellcom for failure to appear, answer, plead or otherwise defend in this action, docket no. 7, the Court, being fully advised, FINDS:

1. Cellcom owes Cingular the liquidated sum of \$1,808,530.00; plus
2. Prejudgment interest of \$241,891.39 through February 24, 2006; plus
3. Attorneys' fees and costs of \$10,203.16.

The Court substantially GRANTS Cingular's requests for judgment. However, the Court FINDS that there is an insufficient basis to award judgment for amounts invoiced by Cingular to Cellcom for services rendered to Cellcom customers beyond the June 15, 2005

1 termination of the Reseller Agreement. The Court FINDS that Cingular is not entitled to
2 judgment for one-half of the July 2005 invoice balance, and the entire August through
3 November 2005 invoice balances. Accordingly, the Court does not award prejudgment
4 interest on these invoice amounts. This Order shall not foreclose Cingular from providing
5 additional evidence to this Court to support a judgment against Cellcom for these invoice
6 balances.

7 The Court also FINDS that there is an insufficient basis to award judgment for
8 attorneys' fees and costs in the proceedings before the New York state court or the United
9 States District Court for the Southern District of New York. This Order shall not foreclose
10 Cingular from providing additional evidence to this Court to support a judgment against
11 Cellcom for these attorneys' fees and costs.

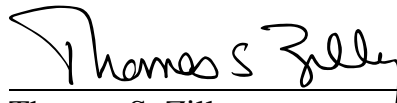
12 Finally, the Court DENIES Cingular's claim that post-judgment interest should accrue
13 at the contract rate of 1.5% per month (18% per annum). Judgment should be entered
14 granting interest at the federal judgment interest rate as determined under 28 U.S.C. § 1961.

15 The Court hereby ORDERS that:

- 16 1. The Court GRANTS Cingular's Motion for Default Judgment, and
- 17 2. The Court directs the Clerk to enter judgment in favor of Cingular and against
18 Cellcom in the amount of \$2,060,624.55, said judgment to bear interest at the federal interest
19 rate of 4.7% per annum under 28 U.S.C. § 1961.

20 IT IS SO ORDERED.

21 DATED this 24th day of February, 2006.

22
23 
24 Thomas S. Zilly
25 United States District Judge
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